IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 4346 of 2003
Date of decision : 31.10.2006.

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Parties Name

Ravinder Pal Singh and another

..... Petitioners

vs.

Tahal Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. M.L. Saggar, Advocate
for the petitioners.

Sh. Raman Mahajan, Advocate
for respondent No.1.

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S.N. Aggarwal, J. (Oral)

The petitioners are the plaintiffs in the learned trial Court. They filed a civil suit, which was contested by the respondents. Issues were framed. The petitioners led the evidence. Thereafter, the respondents led the evidence. In rebuttal, the petitioners placed on the file affidavit of Ravinder Pal Singh-petitioner No.1 dated 6.6.2003. Thereafter, the respondents filed an application that this affidavit be taken off the record as the petitioners do not have right to lead rebuttal on those issues the onus of which lays upon the petitioners. This application was accepted by the learned trail court vide order dated 21.8.2003.

Hence, the present revision petition.

Learned counsel for the petitioners made reference to the

provisions of Order 18 Rule 2 (2) CPC and submitted that the petitioners have a right of rebuttal generally. But the learned counsel for the respondent submits that the onus of issues No. 9 to 12 was on the respondents (defendants in the learned trial Court) and therefore, they had no objection if the petitioners lead evidence on these issues. It was further submitted that the petitioners had no right to lead rebuttal evidence for issues no 3 and 4.

Learned counsel for the petitioners submits that the affidavit of Ravinder Pal Singh-petitioner No.1 dated 6.6.2003 has been taken out of evidence by the learned trial Court vide impugned order dated 21.8.2003 and therefore, they may be permitted to file amended affidavit containing evidence on issues No. 9 to 12. Learned counsel for the respondents has no objection to it.

Therefore, this petition is partly accepted and the impugned order dated 21.8.2003 is set aside to the extent it debars the petitioners from leading evidence on issues No. 9 to 12. The petitioners would be at liberty to produce evidence in rebuttal on issues No. 9 to 12.

The parties may appear before the learned trial Court on 20.11.2006.

Copy dasti on payment of usual charges.

(S.N.Aggarwal)
Judge

31.10.2006.
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